APPENDIX

THE TRIAL COURT'S RULING

"The Court is bound to follow the law as outlined by the Supreme Court of the United States. And the law which the Court is going to follow and has attempted to follow throughout this case is set out in *New York Times v. Sullivan, 84 S. Ct. 710 (1964)* and in *Curtis Publishing Co. v. Butts and Walker, 87 S. Ct. 1975 (1967)* and in *Gertz v. Welch, 94 S. Ct. 2997* and in *Time, Inc. v. Pape, 91 S. Ct. 633.*

"And first of all, I would like to cite and for the record read from *Time, Inc. v. Pape.* In this case throughout Mr. Bloch objected to the defendants not using the word 'alleged.' In *Time v. Pape* on page 639, the Supreme Court of the United States had this to say: "Time's omission of the word 'alleged' amounted to the adoption of one of a number of possible rational interpretations of the document that bristled with ambiguities. The deliberate choice of such an interpretation, though arguably reflecting a misconception, was not enough to create a jury issue of 'malice' under *New York Times v. Sullivan.*"

"In this case when the plaintiff closed his evidence, he did not present any evidence of damages. He requested permission to reopen the case and it was objected to and the Court would not permit him to do so. Therefore, there is no evidence of damage. And in Mr. Bloch's argument just now, it is very obvious that he was seeking to play upon the passion and sympathy of the jury by saying in his argument (which was not evidence) in which he said he had lost his mother, his plane and his house. He argued something which was not evidence. It should not have gone before the jury. But this plaintiff comes here as a pro se plaintiff and it makes one of the most difficult situations that a court can encounter or opposing counsel can encounter. There is a tendency on the part of juries to sympathize with someone who is handling his case on his own in favor of that person and against someone

who has an attorney. And if you will recall in his testimony, he said he filed one of the numerous suits he has filed throughout these United States, 'Johnny Dotson, pro se, against' every one from Governor Dalton down to the Commonwealth's Attorney and various other people in Buchanan County. He has come here obviously under the same guise, of coming pro se for tactical reasons. Let the record show that Mr. Bloch is an extremely intelligent man and has handled his case well, but has made it most difficult for this Court to deal with the many objections. It has made it most difficult for this defense counsel to object to the various tidbits of evidence which is offered. Now, the Court could have stricken the evidence at the conclusion of the plaintiff's evidence. The Court did not see fit to do so and did not do so. The Court could have stricken the evidence at the conclusion of all the evidence. The Court did not see fit to do so. The Court wants . . . this Court wanted a complete hearing in order that the record would be made up, in order that the necessary motions could be made in the other cases with the evidence before the courts in those cases. The Court is of the opinion that Mr. Bloch is out on a mission of harassment against the Mountain Mission School and I think the record will reflect that. And hopefully by spending six days or portions of six days (some on preliminary motions and four days before the jury) that the record is sufficiently made up so that other jurors and other courts will know what the record is and apply these facts and apply the law and hopefully will not have to endure the number of cases and the number of hours of time that must be devoted. There is no evidence of malice in this case. The Court let in all the evidence, as I have stated, for the simple reason that a complete record can be made up and hopefully the other cases can be adjudicated accordingly and with the benefit of that record. There is no evidence of knowledge on the part of the defendants of child abuse at the Mountain Mission School, if any existed. It was difficult for the Court in this case to separate the inadmissible evidence coming in with reference to Mountain Mission School because the real gist of the action goes

back to the criminal abduction charges on which Mr. Bloch was convicted. And during the course of this trial the Supreme Court of Virginia upheld that conviction on May 29th. In other words, it was before the trial started but it was not brought to the attention of the Court and the jury until either yesterday or today. Therefore the Court is of the opinion that the law of this country and the law of the Commonwealth of Virginia compels the Court to set aside the verdict of the jury. And in the case of *Curtis Publishing Co. v. Butts*, the Court said "freedom of speech and press is the indispensable condition of nearly every other form of freedom." To uphold this verdict would be to cause newspaper reporters and newspapers to be fearful of printing anything they heard in a courtroom. And I think the most important point in the entire case was brought out when Birg Sergent said the statement. . .the headline in the Virginia Mountaineer, "Attorney Testifies 'Children Touched' " was true. Now Mr. Bloch did not call Birg Sergent as an adverse witness. Mr. Bloch called Birg Sergent as his own witness. He cannot rise any higher than his own witness. His own witness said the headline was true, and when it was published by the Virginia Mountaineer, it relieved them of any liability. And the Court would like to cite another statement by the Supreme Court of the United States with reference to immunity from publishing what is stated in a judicial hearing. In *Curtis Publishing Co. v. Butts* the Court says, "Privilege pertaining to the reports of judicial proceedings is absolute." All the Virginia Mountaineer did was publish exactly what was in a judicial proceeding and under the holding of the United States Supreme Court in *Curtis Publishing Co. v. Butts*, privilege pertaining to reports of judicial proceedings is absolute. And in that same case, taking the testimony of Birg Sergent, the United States Supreme Court said, "Truth is an absolute defense in almost all libel and slander cases." And in this case the plaintiff, Mr. Bloch, called to the witness stand Birg Sergent and he proved the truth of the statement, that he actually said what was printed in the Virginia Mountaineer. For these reasons the Court is setting aside the verdict of the jury. Of

course, Mr. Bloch, you have the right to take the necessary steps for an appeal to the Supreme Court of Virginia."

JUDGMENT OF THE SUPREME COURT OF VIRGINIA

"Finding no reversible error in the judgment complained of, the court refuses the petition for appeal filed in the above-styled case." Dated June 24, 1982, rehearing denied Sept. 9, 1982.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing petition for writ of certiorari to the Supreme Court of Virginia was mailed to all counsel of record on October 1, 1982.

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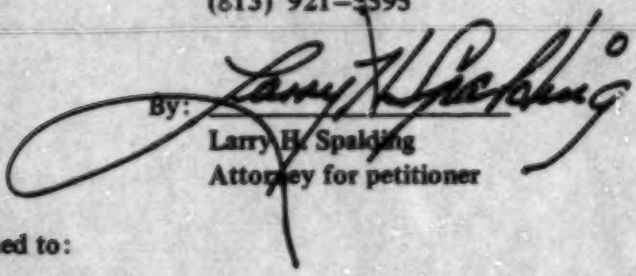

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